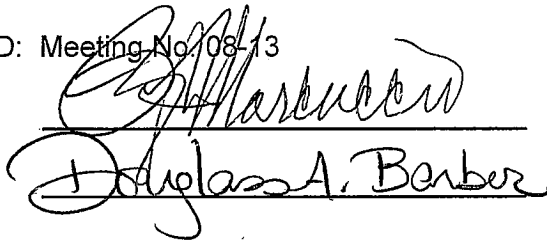


APPROVED: Meeting No. 08-13

ATTEST:



The image shows two handwritten signatures. The first signature is in cursive and appears to be 'Phyllis Marcuccio'. The second signature is also in cursive and appears to be 'Douglas A. Barber'. Both signatures are written over horizontal lines.

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
November 19, 2012
7:00 p.m.
Meeting No. 37-12

PRESENT:

Mayor Phyllis Marcuccio, Councilmember John F. Hall, Jr., Councilmember Tom Moore, Councilmember Bridget Donnell Newton, and Councilmember Mark Pierzchala

STAFF PRESENT:

City Manager Barbara Matthews, City Clerk/Treasurer Doug Barber, and City Attorney Debra Daniel.

1. Convene

The Mayor and Council convened in a regular meeting at 7:00 p.m. on Monday, November 19, 2012, in City Hall, 111 Maryland Avenue, Rockville, Maryland.

2. Pledge of Allegiance

Mayor Marcuccio led the Pledge of Allegiance.

3. Agenda Review

City Clerk Barber advised that there were no changes to the agenda. Mayor Marcuccio advised that if the meeting went late into the night, one item to push forward would be item # 18 (Discussion – Biennial Budgeting).

4. City Manager's Report

City Manager Matthews noted the upcoming Thanksgiving Holiday and that all facilities would be closed on (Thursday, November 22, 2012) Thanksgiving Day with limited hours for some of the City's facilities on the day after Thanksgiving (Friday, November 23, 2012). Refuse collection would be moved up a day and there would be no Mayor and Council meeting on Monday, November 26, 2012.

5. Announcements of Vacancies

Mayor Marcuccio read the vacancies for the following Board and Commissions: Human Services Advisory Commission, Planning Commission, Sign Review Board, and Traffic and Transportation Commission.

6. Recognition of the School of Rock(ville) Class of 2012

The Mayor and Council recognized the participants in the Class of 2012 School of Rock(ville):

Emily Balkam
Tatyana Benjamin
Maya Berman
Juan Carlos Cisneros
Rafi Hadhiman
Jayla Jones
Gustavo Mondelo
Dylan Prince

7. Citizens' Forum

<i>Citizen</i>	<i>Issue</i>
Joe Jordan	RHE purchase of Fireside Park Apartments
Ruth Hanessian	Invite to the GEMS program at the Science Café and the Kiwanis Annual Pancake breakfast
Andrea Jolly	2012 Rockville Summit
John Britton	2012 Rockville Summit

8. Mayor and Council's Response to Citizens' Forum and Announcement.

Councilmember Newton	Thanks to John Britton for his work and efforts with the 2012 Rockville Summit.
Mayor Marcuccio	Noted Ruth Hannesian's items on the Science Café GEMS event and Kiwanis Pancake Breakfast

9. Mayor and Council's Reports

Councilmember Pierzchala reported on the American Planning Association (APA), DC branch award to Rockville for their political leadership on the BikeShare Program.

Councilmember Newton noted the Rainbow House walk was a huge success and thanked our Rockville Police Department.

Mayor Marcuccio noted the Veterans Day event, the ribbon cutting ceremony for the reopening of Best Buy, the testimony offered to the Delegates in Annapolis for their legislative support,

testimony offered at the Board of Education in support of their budget, and that the Friends of Rockville Seniors (FORS) had their kick off at the Senior Center.

- 10. Public Hearing for Ordinance to Amend Rockville City Code Chapter 19, "Stormwater Management and Sediment Control" so as to Comply with the Requirements of the Code of Maryland Regulations (COMAR) 26.17.01 and the 2011 Maryland Standards and Specifications; Providing for the Establishment of Specific Policies and Procedures that Require the Consideration of Sediment Control Measures at the Earliest Stages in the Planning Process and the Integration of Sediment Control and Stormwater Management Measures into the Development Program; and to Further Amend Chapter 19 by Adding Certain New Definitions; and by Generally Revising and Amending the Provisions of Chapter 19 of the Rockville City Code.**

The Mayor and Council convened a Public Hearing on the Ordinance to Amend Rockville City Code Chapter 19, Stormwater Management and Sediment Control at 7:30 p.m. Mayor Marcuccio verified with the City Clerk that the public hearing had been properly advertised.

There was no one wishing to address the Mayor and Council.

Environmental Policy Analyst Arthur Ray provided the Mayor and Council with the staff report for the public hearing.

The complete record for the public hearing can be found in the official public hearing file of the Mayor and Council in the City Clerk's Office.

Mayor Marcuccio indicated that the public record would remain open until Monday, November 26, 2012, at 5:00 p.m. (as recommend).

The Mayor and Council closed the public hearing at 7:36 p.m.

11. Consent Agenda

- A. Award of Contract for No. 9648050171-AF for Outpatient Mental Health Services at the City Operated Linkages to Learning (LTL) program at Maryvale Elementary School (Maryvale) for a Contract Period up to Three Years in the Aggregate Amount not to Exceed \$135,000.
- B. Award of Invitation for Bid #05-13, Sanitary Sewer System Improvements, Various Locations as follows: Groups I, II and III, Sanitary Sewer Lining and Sanitary Sewer Dig and Replace in the Amount not to Exceed \$8,000,000 for up to a Five-Year Period.
- C. Authorization to Grant A Stormwater Management Easement and Maintenance Covenant at the Water Treatment Plant to Montgomery County.

Councilmember Newton requested Consent Agenda 11B be pulled.

Motion: to approve Consent Agenda A and C.

Moved by Councilmember Hall, seconded by Councilmember Pierzchala, and unanimously approved.

Questions of clarification from the Mayor and Council were responded to by staff on Consent Agenda Item B.

Motion: To approve Consent Agenda Item B.

Moved by Councilmember Newton, seconded by Councilmember Moore, and unanimously approved.

12. Presentation – Draft of the Rockville Amendment to the Montgomery County Heritage Area Management Plan, Including Proposed Language to Adopt the Amendment into the Comprehensive Plan

Chief of Planning Wasilak presented the staff report on the plan, which is endorsed by the Rockville Planning Commission. This plan would bring Rockville into the Heritage Area, allowing Rockville to take advantage of the marketing afforded by the Heritage Tourism Alliance in Montgomery County and also make the City eligible for grants. Mr. Wasilak provided background information on the boundaries of the area and closed by announcing a Public Hearing scheduled for December 10, 2012. Questions of clarification from the Mayor and Council were responded to by staff and the presentation was accepted.

13. Discussion and Instructions, and Adoption of Ordinance to Repeal and Re-Enact with Amendments Chapter 9 of the Rockville City Code, Entitled "Fire Safety Code" so as to Adopt and Incorporate by Reference the State of Maryland Fire Prevention Code with Amendments, as the Fire Prevention Code of the City of Rockville

No formal presentation was made. Councilmember Hall thanked Fire Marshal Aaron Smith and staff for taking the time to do this item well. Questions of clarification raised by the Mayor and Council were responded to by staff. Additional language was requested be added to Sec. 9-06 Administration.

Motion: To make an amendment to add "qualified" to Sec. 9-06 Administration last line to read "...qualified assistants, subordinates, or other employees of the City."

Moved by Councilmember Moore, seconded by Councilmember Hall and unanimously approved.

Motion: To adopt the Ordinance to Repeal and Re-Enact with Amendments Chapter 9 of the Rockville City Code, Entitled "Fire Safety Code" so as to Adopt and Incorporate by Reference the State of Maryland Fire Prevention Code with Amendments, as the Fire Prevention Code of the City of Rockville.

Moved by Councilmember Hall, seconded by Councilmember Pierzchala, and unanimously approved.

14. Discussion and Instructions – Report from the Rockville Summit 2012

Organizational Development Manager Flaherty stated that representatives from the individual working groups from the Rockville Summit 2012 would be available to answer any questions and receive direction from the Mayor and Council. The Mayor asked the individuals to relate their hottest topics as there was not enough time to cover all 139 recommendations.

Julie Palakovich Carr – Vice Chair Services and Budget presented City Services and Budget:

- Issues 5-10 years out
- Maintaining revenues
- Unfunded liability of the pension plan
- Unfunded and underfunded CIP

Sushil Birla presented Transportation and Traffic

- Cleaner; safer Rockville with lower costs
- More efficient transportation options
- Fewer single occupancy vehicles
- More use of walking, bike and public transportation
- Implement a Rockville circulator bus

Dr. Renata Greenspan presented Housing

- Manage growth rather than have growth happen
- Multi-family rather than single family is the future
- Maintain sense of community
- Preserve single family homes
- Maintain and develop diversity in cost, culture, type
- Seniors able to stay
- APFO more in agreement with Montgomery County
- Protect and improve what we have (in particular, single family houses and moderately priced units)

Kathleen Whitmire, Vice Chair of the Education and School Capacity presented Education and School Capacity

- Overcrowding
- Challenges that come for the more vulnerable groups that need education
- More assertive advocacy by Rockville and strong relationship building
- Standing education committee to help with communication, coordinate advocacy efforts, and implement other group recommendations

Caleb Michaud presented Job Growth and Residential Workforce

- Take a balanced approach to economic development, equally weigh concerns of the residents and businesses
- Pursue industry clusters, build on the biotech community to make it an industry cluster, advertise and support more. Identify other industry clusters.

Jerry Callistein presented Preserving Rockville's Character

- Maintaining feel of Rockville as a residential community, not a big city
- Preserve neighborhoods
- Keep green spaces

- Address growing diversity by moving groups off the margins and make them more a part of the city and make their needs known
- Create a community outreach commission

Councilmember Pierzchala was pleased with the recommendations and was glad to see so many new faces. Suggested making these recommendations part of the master plan.

Councilmember Hall agreed with Councilmember Pierzchala and stated there were some very innovative suggestions. Provisions will have to be made for some items to the Code, MPDUs being one of them. Councilmember Hall found it interesting to note that every commission had something to say about the Adequate Public Facilities Ordinance (APFO).

Councilmember Moore thanked all for their time and bringing the issues to the Mayor and Council. Mr. Moore was struck that the APFO came up so often and it was suggested that the City standards be changed to reflect the County standards and is something that the Mayor and Council should take seriously.

Mayor Marcuccio encouraged all the representatives from the working groups to join one of the City's Boards or Commissions.

Councilmember Newton thanked all for their involvement. Was happy the Rockville Summit 2012 brought the community together.

15. Approval of Montgomery County's Offer to Advance the City's \$1.5 million General Fund Loan to Rockville Housing Enterprises

Budget and Finance Manager Webster presented the staff report to the Mayor and Council noting that the Mayor and Council approved funding to Rockville Housing Enterprises (RHE) in the amount of \$2 million for the acquisition of Fireside Park Apartments and concluded by asking the Mayor and Council to approve this advance. Questions of clarification posed by the Mayor and Council were responded to by staff.

Motion: To approve Montgomery County's offer to advance the City's \$1.5 million General Fund Loan to Rockville Housing Enterprises.

Moved by Councilmember Moore, seconded by Councilmember Hall with Councilmember Hall, Councilmember Newton, Councilmember Moore and Councilmember Pierzchala approving and Mayor Marcuccio opposed.

16. Introduction and Adoption of Ordinance to Amend Ordinance #08-12 to Appropriate Funds and Levy Taxes for Fiscal Year 2013

Motion: To introduce ordinance to amend ordinance #09-12 to appropriate funds and levy taxes for Fiscal Year 2013.

Moved by Councilmember Pierzchala

Motion: To waive the layover.

Moved by Councilmember Hall, seconded by Councilmember Pierzchala, and unanimously approved.

Motion: To adopt Ordinance to amend ordinance #09-12 to appropriate funds and levy taxes for Fiscal Year 2013.

Moved by Councilmember Pierzchala, seconded by Councilmember Hall with Councilmember Moore, Councilmember Pierzchala, Councilmember Newton and Councilmember Hall approving and Mayor Marcuccio opposed.

17. Review and Comment – First Quarter FY 2013 Financial Report

Budget and Finance Manager Webster addressed the Mayor and Council and provided the staff report. Staff responded to questions of clarification posed by the Mayor and Council and the Mayor and Council offered further comments and suggestions on the First Quarter FY13 Financial Report. The consensus of the Mayor and Council was that the new report format offered a clearer way of getting the total picture and provided transparency.

18. Discussion – Biennial Budgeting

Budget and Finance Manager Webster addressed the Mayor and Council providing a PowerPoint presentation on Biennial Budgeting. Ms. Webster described in detail the three types of biennial budgets and the advantages and disadvantages of a biennial budget were reviewed by key points. Ms. Webster noted that if the Mayor and Council adopted a biennial budget approach, several changes in law or policy would need to be made to the City Code, City Charter and Financial Management Policies. Ms. Webster concluded her presentation by announcing the next budget meeting on the schedule and asked the Mayor and Council to discuss the biennial budget and provide direction. The Mayor and Council discussed the issue at length and staff responded to questions of clarification posed by the Mayor and Council. The consensus from the Mayor and Council was that this was a good idea and staff was directed to gather as much information as possible on the issue.

Note for the Record: The Mayor and Council took a recess at 9:14 p.m. The meeting reconvened at 9:21 p.m.

19. Discussion and Instructions – Chapter 16 Ethics Ordinance Revisions

City Attorney Daniel provided background information and the staff report to the Mayor and Council. City Attorney Daniel went into detail on the four areas raised dealing with the City's Ethics Commission, Conflicts of Interest, Financial Disclosures and Additional Clarifying Language.

The Mayor and Council discussed the issue at length and staff responded to questions of clarification posed by the Mayor and Council. City Attorney Daniel clarified the language the Mayor and Council wants to have in the code related to how the Mayor and Council will pick the original members of the Ethics Commission. The first sentence would remain the same and the second sentence would read: "The Mayor shall consult with each councilmember prior to nomination of the original members of the Ethics Commission". This was agreed to by all members of the Mayor and Council.

The next provision 16-3(b) raised a couple of issues. The first issue was whether members must be registered to vote in the City. The City of Rockville is the only jurisdiction that has this

requirement. There is concern that that provision might prohibit citizens from serving on the Commission. This issue was discussed at length by the Mayor and Council and questions of clarification were responded to by staff. The consensus of the Mayor and Council was to remove this requirement.

City Attorney Daniel noted the other issue under 16-3(b) was whether or not the Mayor and Council would want any other qualifications for their members. Mayor Marcuccio expressed interest in having at least one of the members be an attorney because they would understand the law. The general consensus was to add that to the list of qualifications.

City Attorney Daniel noted the next provision is 16-3(d) and the language will be changed to read that the commission members would select the Chair by general consensus.

City Attorney Daniel noted the next provision, Article V Exemptions and Modifications, deals with allowing the State Ethics Commission to make exemptions and modifications to certain requirements under conflicts and financial disclosures. Ms. Daniel advised these exemptions and modifications are for people other than elected officials. Elected officials cannot ask for exemptions and modifications under State law. Ms. Daniel explained that an issue was raised that the language allowed for a large loop hole for people to be able to sidestep certain requirements. Ms. Daniel noted that this language came out of the model Ethics law and was in every other jurisdiction reviewed except for the City of Takoma Park.

Councilmember Moore suggested adding language that exemptions and modifications are discouraged and should not be granted routinely, which was the general consensus of the Mayor and Council. Mayor Marcuccio questioned how this would be phrased and City Attorney Daniel noted she would need to think about that. Ms. Daniel also advised that any and all changes would be brought back to the Mayor and Council for review and approval.

Councilmember Newton asked to have the wording changed on Attachment A-5 (c)(i)(j) to read "...may request an advisory opinion from the Commission concerning the application of this Chapter".

Mayor Marcuccio requested that language be added under Training whereby the Commission will provide ethics training. City Attorney Daniel recommended adding the same language as in the College Park Code as follows: "The Commission shall provide ethics training to the City's elected officials, candidates for elected office, employees and board and commission appointees, as necessary and appropriate".

City Attorney Daniel noted there were issues related to conflicts of interest and financial disclosures. There is a definition of "gift" and the issue was raised that the word "gift" should also include jobs. Ms. Daniel stated that after review of the language it was determined it was included already in the definition. However, the general consensus of the Mayor and Council was to include the word "job". After a bit more discussion, the general consensus was to include the word "employment" instead of "job".

Regarding financial disclosures, the Mayor and Council discussed the issue at length and staff responded to questions of clarification posed by the Mayor and Council. Councilmember Newton requested a list of decision-making, salaried employees be compiled by the City Manager and City Attorney to file financial disclosure statements just as Montgomery County and Baltimore City have done. City Attorney Daniel requested additional guidance from the Mayor and Council in terms of what they expect in regards to employees and various Board and Commission members. Mayor Marcuccio clarified who should be included as elected officials

and designated Boards and Commissions (Planning Commission, Board of Appeals, Historic District Commission). City Attorney Daniel clarified the two levels of disclosure: one in accordance with the provisions as they currently are, and one of elected officials required to file financial disclosures in accordance with the State law. Councilmember Moore requested City Attorney Daniel take a look at what Montgomery County requires.

Councilmember Pierzchala suggested having the three Boards and Commissions (Planning Commission, Board of Appeals, and Historic District Commission) maintain their current level of disclosure while the Mayor and Council would have a higher level of disclosure. The Mayor and Council can always come up with a different level for the Ethics Commission and Board of Supervisors of Elections. There was general consensus in agreement from the Mayor and Council.

The next section of concern deals with a situation where a person is disqualified or conflicted from participating in an action may still act if the disqualification leaves the body with less than a quorum, is required by law to act, or is the only person authorized to act. City Attorney Daniel stated this language is exactly what is in the model Code and all other jurisdictions had the same language. Ms. Daniel recommends it remain in the Code but knew there were some concerns. After some discussion, it was decided to have this language remain.

City Attorney Daniel advised that some clarifying language was requested to be added to clarify additional penalties that could come about if the Commission or Court was to find a violation of the Ethics Code that additional penalties be issued by the appropriate authority as provided by law. There was general consensus in agreement from the Mayor and Council to keep the language.

Councilmember Newton requested a copy of the form that is being filled out and a mock form so people can see what this is really going to be like. There was further discussion at length and some additional questions of clarification of the Mayor and Council were responded to by staff with some additional changes or additions requested by the Mayor and Council.

20. Review and Comment regarding Mayor and Council Action Report

Councilmember Newton requested information on the status of the Maryland Avenue sidewalk project. Public Works Director Simoneau responded with an update.

21. Review and Comment regarding Future Agenda

City Manager Matthews commented on moving some of the future agenda items to future agendas in order to have the meetings adjourn by 11:00 p.m.

22. Old/New Business

No comments received.

23. Adjournment

There being no further business, the Mayor and Council adjourned at 11:17 p.m.

Motion: To adjourn.

Moved by Councilmember Newton, seconded by Councilmember Hall, and unaniomously approved.